

Theme: Labour Markets

Haroon Bhorat, Ravi Kanbur, Benjamin
Stanwix, Amy Thornton¹

Measuring Multiple Levels of Minimum Wage Violation in the South African Labour Market

1. What are the major issues you have identified about the manifestations of structural poverty and persistent, deep inequalities in your focus area?

Excessive and widespread worker vulnerability exists in the South African labour market in spite of existing labour legislation designed to protect workers. Part of this vulnerability is due to employer non-compliance with labour legislation such as the requirements contained in the Basic Conditions of Employment Act (BCEA); illustrating the important difference between *de jure* and *de facto* labour legislation. Labour legislation exists to govern the relationships between employers and employees in the labour market given the differentials in incentives and power that exist between these parties. From the point of view of the worker, labour law protects basic worker rights, and establishes standards for working conditions and remuneration. This is only true if employers obey the labour law.

Evidence from an emerging body of literature, however, suggests that enforcement of labour law in developing countries is especially weak and rates of non-compliance are high (Ronconi, 2010; Ronconi, Sidders and Stanwix,

About this brief

This brief was commissioned by the Mandela Initiative to help inform a synthesis report on its work since the 2012 national conference, *Strategies to Overcome Poverty and Inequality*, organised by the University of Cape Town. The MI provides a multi-sectoral platform to investigate and develop strategies to overcome poverty and reduce inequality in South Africa. While the Nelson Mandela Foundation is a key partner, the Initiative has relied on collaborations between academics and researchers, government, business leaders, civil society, the church and unions.

The synthesis report serves as a framework for reporting on the work of the MI at a national gathering on 12 – 14 February 2018 at the University of Cape Town. The MI *Think Tank* has identified the objectives for the gathering as:

- to anchor the contributions of the MI within an analysis of the current South African political and economic context;
- to share the recommendations emanating from the MI-related work streams at a policy/strategic level to advance the goal of eliminating poverty and reducing inequality;
- to critically engage with the potential impact of the recommendations on eliminating structural poverty and inequality; and
- to discuss ways of promoting popular conversations and debate about what needs to be done to eliminate poverty and reduce inequality, beyond the MI.

The synthesis report aims to assist participants to prepare for the national gathering. The report drew on findings from the sectoral research projects of Think Tank members; the MI's *Action Dialogues*; a report on an MI *Community of Practice workshop* with research chairs from different universities to identify cross-cutting themes emerging from the MI's *research programme*; and the work programmes of others who have expressed an interest in contributing to the goals of the MI.

¹ Bhorat, Stanwix and Thornton are with the Development Policy Research Unit, University of Cape Town; Kanbur is with Cornell University.

2016; Borat, Kanbur and Mayet, 2012). This is also the case in South Africa, where according to our research, about 43 percent of covered workers were earning below the stipulated minimum wage in 2014. Rates of non-compliance with other job entitlements are also high: the rates for violation of paid leave, sick leave, and maternity and paternity leave were 44 percent, 39 percent, and 59 percent, respectively. We find that being violated in one sense of the law is related to being violated in other senses. Specifically, being paid sub-minimum wages is correlated with not having access to non-wage entitlements. In our paper we treat violation as a multi-dimensional concept, meaning that it can be viewed as the accumulation of multiple single measures and analysed by incidence and intensity. We find a high incidence of multi-dimensional wage and non-wage violation and within this a very high intensity of multi-dimensional non-wage violation.

2. What do you think are the main reasons for the persistence of the deep inequalities and poverty in your focus area? These can include policy, capacity or implementation constraints/ problems.

The main reasons for persistence of worker vulnerability is that existing labour law is not adequately enforced. Resources are a serious constraint with only 1 056 labour inspectors in 127 Labour Centres in the country in 2014 (DPRU, 2016). This means firms can violate the law with relative confidence that they won't be caught, and even if they are caught the penalties are not severe. Violation of the law is also enabled by large power disparities between employees and employers in a job-scarce economy. Since unemployment is so high in South Africa, workers find themselves in a weak bargaining position relative to firms – a circumstance that labour law aims to prevent. In our analysis into the main correlates of violation, we find that workers living in areas with a higher unemployment rate are likely to face higher levels of violation. The likely mechanism at play is that such workers have relatively less bargaining power compared to their employer and are therefore more likely to accept precarious working conditions. At a broader level this is a symptom of the deep structural inequities that characterise the South African labour market.

3. What is being recommended at a macro policy/strategic level to deal with the major issues you have identified?

There are two strategies that can be pursued. Firstly, finding ways to improve the efficacy of enforcement efforts and, secondly, working to shift the dynamics between workers and firms. It would be optimal if enforcement was effective enough to ensure compliance. This entails making non-compliance expensive (appropriately set fines) and increasing the chance that such expenses would have to be paid (probability of being inspected) should non-compliance be uncovered. The probability of inspection can be increased by allocating more resources to Labour Centres and increasing the ratio of inspectors to firms. Labour inspectors must be distributed appropriately across the country to avoid the spatial patterns in violation that we observe. For example, clustering labour inspectors in cities leaves rural areas vulnerable to violation, especially when rural areas are precisely those with high unemployment rates which are associated with higher levels of violation.

THE MANDELA INITIATIVE

Dialogue and action to overcome poverty and inequality



The second strategy pertains to influencing the power dynamics between workers and firms. Workers who are in a stronger position of bargaining power are better positioned to ensure they receive basic provisions. Weak worker bargaining power is a consequence of extensive inequalities in the labour market, high levels of unemployment, weakening union power, and large skills disparities. General strategies aimed at reducing poverty and inequality and increasing employment will help even the dynamics between employer and employee.

What do you think the potential impact of the recommendations will be on eliminating structural poverty and reducing inequality?

Since the labour market plays a key role in income generation it is a crucial contributor to overall income poverty and inequality in South Africa. Remedying conditions in the labour market that allow for the persistence of inequality is therefore a pathway towards a more equal society. Our research identified one of the conditions that reinforce labour market inequality: the violation of labour laws. Improving enforcement of minimum wage law implies that workers are better remunerated and more income is flowing to their households. This has knock-on effects for poverty in poorer households. But better labour law enforcement should also be extended to non-wage aspects of the law. Workers that have written contracts and unemployment insurance are more confident in their job security and are therefore able to save and plan for the future. The enforcement of leave entitlements is also important. Workers who are able to take leave are less prone to the health consequences of burn out (Klein, 2016). Knowing that legally taking time off work won't endanger your job may thus have links to higher levels of productivity.

REFERENCES

- Bhorat, H., Kanbur, R., & Mayet, N. (2012) Estimating the Causal Effect of Enforcement on Minimum Wage Compliance: the Case of South Africa. *Review of Development Economics*, Vol. 16(4): 608-23.
- DPRU (2016), Investigating the Feasibility of a National Minimum Wage in South Africa. Report for the Department of Labour.
- Klein, R. (2016) Evaluating Health and Healthcare Use Effects of Changes in Paid Sick Leave Access for Workers in the United States., Doctoral Dissertation. University of Minnesota.
- Ronconi, L. (2010). Enforcement and compliance with labor regulations in Argentina. *ILR Review*, 63(4), 719-736.
- Ronconi, Sidders & Stanwix. (2016), The Paradox of Effective Labor Regulation, Presented at the Network for Jobs and Development Conference, Washington DC, November 2016.

For more information on the Mandela Initiative:

